



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

MAR 10 2015

REPLY TO THE ATTENTION OF:
 WQ-16J

Paula Goodman Maccabee, Esq.
 Just Change Law Offices
 1961 Selby Ave.
 St. Paul, Minnesota 55104


Dear Ms. Maccabee:

Thank you for your February 27, 2015 letter to Administrator McCarthy regarding possible changes to Minnesota's water quality criterion for sulfate to protect wild rice. Administrator McCarthy asked that I respond to your letter.

Minnesota's existing sulfate criterion at 7050.0224, Subp. 2. is approved by the U.S. Environmental Protection Agency and is effective for all purposes under the Clean Water Act until such time as Minnesota adopts and EPA approves revisions. Any revisions to this water quality criterion must be submitted to EPA for review and approval pursuant to 33 U.S.C. §1313(c)(2)(A) and CWA §303(c)(2)(A). Such revised water quality standards are not effective for CWA purposes, including National Pollutant Discharge Elimination System permits, until approved by EPA per 40 CFR §131.21. If and when Minnesota submits water quality criteria changes to EPA, 40 CFR §131.6 specifies the requirements for submittal which, at a minimum, include the methods and analyses conducted to support the standards revisions and a description of how the criteria are sufficient to protect the designated use. Federal regulations require that criteria be protective of a state's designated uses, and EPA's approval is based, among other things, on determining that there is scientifically defensible basis for finding that the criteria are sufficient to protect designated uses (see generally 40 CFR §§131.5, 131.11, and 131.21). Absent such a showing, EPA would be unable to approve a revised criterion (see generally 40 CFR §131.6(b)). An EPA decision to approve or disapprove a water quality standard would be available for judicial review.

I believe this information addresses your concerns. If you have any questions, please contact David Pfeifer at (312) 353-9024.

Sincerely,


 for Tinka G. Hyde
 Director, Water Division